

(18/6)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

CCP 189/92 in
O.A.1100/89.

DATE OF DECISION: 4.1.1993.

P.D. Makkar.

..Petitioner.

Versus

Union of India
through
Shri B.V. Adavi
The Secretary,
Ministry of Defence (Finance),
Financial Adviser (Defence Services),
South Block,
New Delhi-110001.

..Respondent.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. S.R. ADIGE, MEMBER(A).

For the Petitioner. .. In person.

For the Respondent. .. Shri P.H. Ramchandani,
Sr. Counsel.

ORDER (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

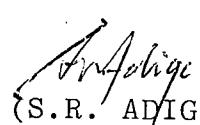
This petition is for enforcing the judgement of the Tribunal in O.A. No. 1100/89 decided on the 25th July, 1991. The relief was granted to the Tribunal following the judgement of the Delhi High Court in Civil Writ Petition No. 1342/79 decided on 9.12.1980. As the said decision has been challenged in the Letter Patent Appeal (LPA), the Tribunal while granting the relief has said that in case as a result of the final decision of the LPA, the position is reversed, the petitioner will have to refund the amount received by him on the strength of the judgement of the Tribunal. The petitioner when he was appointed in the Indian Accounts Service was given only the Junior pay scale. The petitioner contended that he is entitled to the senior scale as he was functioning in Group Charge post which carried the senior scale of pay. Following the decision of the Delhi High Court, the Tribunal directed the senior scale of pay being accorded to the petitioner having regard to the fact that the petitioner has actually worked on the post which carried the senior scale

given the emoluments on the basis that he was entitled to be placed in the senior scale of pay. The petitioner has, however, two subsisting grievances which he put forward before us during the course of the arguments. He maintains that as the Tribunal has also granted consequential benefits it means that he is entitled to further promotion to the Junior Administrative Grade. It is necessary to point out that the judgement of the Delhi High Court which has been followed by the Tribunal did not say that the petitioner must be deemed to have been promoted to the senior scale. Though such an argument was advanced, no decision was rendered to the effect that the person must be deemed to have been promoted to the post carrying the senior scale. The only decision is that because the particular officer was asked to perform the duties and functions of the post which carried the senior scale of pay, the administration was directed to pay the senior scale of pay for the period during which the services were taken from him which carried the senior scale of pay. The respondents have relied upon the administrative instructions according to which, promotion from Junior Time Scale to Senior Time Scale could be made of an officer who has put in four years of regular service in the Junior Time Scale and is approved by the appropriate Departmental Promotion Committee, which has to assess his suitability to the senior scale. It is the further case of the respondents that for earning promotion to the Junior Administrative Grade, one has to put in five years of regular service in the senior grade and then get considered by the appropriate DPC. The petitioner has also filed an Original Application No. 1736/92 where he has actually claimed relief in regard to promotion. This only indicates how the petitioner has understood the scope and effect of the judgement which he is now enforcing. On a perusal of the judgement of the High Court of Delhi, we are satisfied that no direction has been given to consider his case for promotion. The relief granted to the petitioner is of according of the senior scale of pay

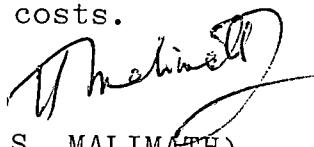
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during the period he was functioning as Group Charge Officer as that post carried the senior scale of pay. Hence, consequential reliefs contemplated by the judgement are only in the matter of according to the petitioner the benefit of the senior scale of pay. That having been done, it is not possible to take the view that there is any scope for taking action under the Contempt of Courts Act.

2. Another grievance of the petitioner is that he was entitled to receive special pay for certain periods during which he occupied positions which entitled him to the grant of special pay. It is necessary to point out that no such relief was asked in the O.A. nor any such relief was granted in the judgement of the Tribunal. The expression (Consequential benefits) cannot in the circumstances be understood as bringing within its ambit the grant of special pay as that depended upon ascertainment and adjudication of the relevant facts. That not having been done in the judgement of the Tribunal, the action under the Contempt of Courts Act is not possible. We do not express any opinion on the question as to whether the petitioner was or was not entitled to grant of special pay. We are satisfied that no action under the Contempt of Courts Act is called for. These proceedings are dropped. No costs.


(S.R. ADIGE)
MEMBER(A)

'SRD'
050192


(V.S. MALIMATH)
CHAIRMAN